IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 4617 / 2005 Single Bench

Petitioner : Ram Prasad
S/o Late Mohar Sai,
Aged about 60 years,
R/o Pump House, Jhopdi Patti, S.E.C.L Korba, Thana – Korba, Dist : Korba-(C.G.)

Versus

Respondents :

1. Dhanamati
W/o Ram Prasad,
Aged about 39 years.

2. Ku.Hemlata
D/o Ram Prasad,
Aged about 15 years,

3. Ku.Hempushpa
D/o Ram Prasad,
Aged about 13 years

(Respondent no. 2 & 3 Through her natural guardian mother Dhanamati), R/o Pump House, Jhopdi Patti, S.E.C.L. Korba, Thana – Korba, Dist : Korba-(C.G.)

4. The Dy.Personnel Manager,
S.E.C.L. Manikpur, Korba,
Dist : Korba-(C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitioner
As per cause title.

2. Particulars of the Respondents
As per cause title.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4617/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26.9.2005

Shri Shravan Agarwal, counsel for the petitioner.

Heard.

The petitioner has preferred this writ petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 15.7.2005 (Annexure P-5) whereby the learned Appellate Court allowed the miscellaneous appeal filed by respondent Nos.1 to 3 herein filed against the order of learned Civil Judge, Class-II, Korba dated 16.10.2004 whereby the learned Civil Judge has rejected the application of respondents Nos.1 to 3 herein filed under Order 39 Rules 1 & 2 read with Section 151 of the CPC.

Brief facts leading to filing of this writ petition are that the respondent Nos. 1 to 3 claiming themselves as wife and daughters of the petitioner herein filed a civil suit for declaration & permanent injunction against the petitioner and also Deputy Personnel Manager of S.E.C.L., Manikpur, Korba praying therein that the petitioner herein should not be given all the retiral benefits and that respondent Nos.1 to 3 herein are entitled for three shares out of five shares being the wife and daughters of the petitioner herein.

Perusal of the record shows that when the petitioner herein neglected to maintain respondent Nos.1 to 3, they filed an application

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

under Section 125 of the Cr.P.C against the petitioner. In that application learned Magistrate granted maintenance of Rs.500/- per month to each of the applicant i.e. respondent Nos.1 to 3 herein and in compliance of that order Rs.1,500/- per month were being deducted from the salary of the petitioner. Now the question before the trial Court was that if the petitioner herein is allowed to take all the retiral benefits then respondent Nos.1 to 3 will not be able to get their maintenance allowance and even their shares and the petitioner has already withdrawn, as admitted by the petitioner himself, an amount of Rs.1,74,000/- from his Provident Fund account. Therefore, learned appellate Court considering the case of respondent Nos.1 to 3 strong prima-facie case on the ground that if the petitioner is allowed to take all the retiral benefits then respondent Nos.1 to 3 will not be able to get their maintenance allowance & shares directed respondent No.4 not to grant all the retiral benefits to the petitioner till the disposal of the suit.

Looking to the facts of the case that maintenance is being paid by the petitioner to respondent Nos.1 to 3, the petitioner has already withdrawn Rs.1,74,000/- and the petitioner is neglecting to maintain respondent Nos.1 to 3, I am of the considered opinion that by passing the impugned order the appellate Court has not committed any illegality or infirmity. As such, the petitioner has not been able to

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

make out a case for interference by this Court under Article 227 of the Constitutions of India, the petition is liable to be dismissed and it is, accordingly, dismissed.

However, the question regarding pension amount is concerned, the petitioner will be entitled to draw pension subject to payment of maintenance allowance of Rs.1500/- to respondent No.1 to 3 out of the pension amount.

Looking to the urgency of the matter, the trial Court is directed to expedite the trial and decide the suit as early as possible.

Consequently, M.(W.)P. No.3746/05 also stand dismissed.

Sd/-
L.C. Bhadoo
Judge

Cost and

SP/FS/2005 - 20,000

31.10.05